



Attorney's Docket No.: 13774-002001 / 10113/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Hao Yuan
Serial No. : 10/018,981
Filed : December 18, 2001
Title : THE LEAVES OF CAJANUS CAJAN(L.) MILLSP AND EXTRACT,
FORMULATION AND USES THEREOF

Art Unit : 1615
Examiner : Simon J. Oh

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTICE OF APPEAL

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the final office action dated April 1, 2003, rejecting claims 16-21.

A petition for an extension of time under 37 CFR §1.136 to extend the time to respond to the final rejection for 3 month(s) to and including October 1, 2003 was filed on September 22, 2003.

A check in the amount of \$160 for the appeal fee is enclosed. Please apply any other changes to Deposit Account No. 06-1050.

Applicant would like to summarize below the prosecution history after the issuance of the advisory action dated July 24, 2003.

In the advisory action, the Examiner did not comment on the merits of Applicant's arguments presented in the response to the final office action. Instead, he asserted that the amendments proposed in the response would result in "further consideration and search." Applicant's counsel scheduled a telephone interview with the Examiner and sent to him via facsimile a letter on August 14, 2003 with an outline for the interview. An interview was eventually scheduled for September 5, 2003. During the interview, the Examiner conceded that he erred in his statement in the advisory action but presented new grounds for rejection, and

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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September 30, 2003
Lisa G. Gray
Lisa G. Gray

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granted Applicant's request for filing a supplemental response to rebut his new grounds for rejection. Applicant duly filed the supplemental response on September 22, 2003. Applicant's counsel subsequently had a telephone conference with the Examiner on September 26, 2003. During the telephone conference, the Examiner merely stated that he was not convinced by the arguments presented in the supplemental response on the ground that he interpreted a prior art document differently from Applicant without any elaboration.

In sum, the Examiner never addressed in writing the arguments presented by Applicant in the responses to the final office action/the September 5, 2003 interview. Indeed, the advisory action, which set forth an erroneous ground, is the only written document issued by the Examiner after the final office action.

Finally, Applicant's counsel had a telephone conference on September 29, 2003 with Supervisory Examiner Thurman Page. Mr. Page graciously proposed that Applicant file a Notice of Appeal and agreed to have another telephone interview with Applicant's counsel after the filing of the Notice of Appeal.

Respectfully submitted,

Date: _____

9-30-03

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